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8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10

11 BOARD OF TRUSTEES OF THE	)	NO. C 07 3207 SI
12 NORTHERN CALIFORNIA FLOOR,	)	
et al.,	)	RE NOTICE OF MOTION AND
	)	MOTION FOR DEFAULT
13 Plaintiffs,	)	JUDGMENT <u>AND ATTORNEYS'</u>
	)	<u>FEES</u>
14 vs.	)	[F.R.C.P. 55 (b)(2)]
	)	
15 BEVIL'S FLOOR SERVICE, etc.,	)	Date: July 18, 2008
	)	Time: 9:00 a.m.
16 Defendant.	)	Courtroom 10, 19 <sup>th</sup> Floor
	)	

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18 TO DEFENDANT:

19 This Motion was previously noticed before Magistrate  
20 Judge James Larson for June 18, 2008. No hearing will be held on  
21 that date. On May 16, 2008 the case was reassigned to Judge Susan  
22 Illston.

23 PLEASE TAKE NOTICE that on Friday, July 18, 2008 at 9:00  
24 a.m. or soon thereafter as counsel may be heard, before the  
25 Honorable Susan Illston, Judge of the United States District Court,  
26 Northern District of California, 450 Golden Gate Avenue, Courtroom  
27 10, 19<sup>th</sup> Floor, San Francisco, CA, plaintiffs BOARD OF TRUSTEES OF  
28 THE NORTHERN CALIFORNIA FLOOR COVERING INDUSTRY WELFARE FUND; STEVE  
HAVENS, TRUSTEE, will and do move this court, pursuant to Rule

1 55(b)(2) of the Federal Rules of Civil Procedure, to enter a  
2 default judgment and award plaintiffs unpaid and owing liquidated  
3 damages, interest, court costs and attorneys' fees.

4 This motion is made on the grounds that defendant has  
5 failed to appear herein after valid service, the default of  
6 defendant was entered by this Court on December 13, 2007, and there  
7 are no triable issues of fact or disputes at law. Defendant has  
8 a contractual obligation to pay contributions to the NORTHERN  
9 CALIFORNIA FLOOR COVERING INDUSTRY WELFARE FUND, and has failed to  
10 properly pay on behalf of covered employees in a timely manner.  
11 This motion is based upon this ReNotice, the Memorandum of Points  
12 and Authorities in Support Thereof, Declarations of Rose Cortez and  
13 Michael J. Carroll in Support of Motion for Default Judgment and  
14 Exhibits previously efiled on May 13, 2008 as Document Numbers 26,  
15 27, 28, and 29 on the Court Docket, and such further oral or  
16 documentary evidence as may be presented at the hearing of this  
17 motion.

18 DATED: May 21, 2008

ERSKINE & TULLEY  
A PROFESSIONAL CORPORATION

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21 By: /s/ Michael J. Carroll  
Michael J. Carroll  
Attorneys for Plaintiffs  
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PROOF OF SERVICE BY MAIL

I am a citizen of the United States and employed in the City and County of San Francisco, California. I am over the age of eighteen years and not a party to the within above entitled action; my business address is 220 Montgomery Street, Suite 303, San Francisco, California 94104. On May 21, 2008 I served the within RE NOTICE OF MOTION AND MOTION FOR DEFAULT JUDGMENT AND ATTORNEYS' FEES on the defendant in said action, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States post office mail box at San Francisco, California, addressed as follows:

Bevil's Floor Service, Inc.  
Benny W. Bevil CEO  
533 Burke Street  
San Jose, CA 95112

I, DIANE ANDRADE, certify (or declare), under penalty of perjury that the foregoing is true and correct.

Executed on May 21, 2008 at San Francisco, California.

/s/ Diane Andrade